SPEECH

OF

MR. PECKHAM, OF NEW YORK,

ON THE

KANSAS AND NEBRASKA QUESTION.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, MAY 18, 1854.

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SPEECH

Mr. CHAIRMAN: I desire to address the committee upon the subject under consideration. Preliminarily, however, I will make a remark or two in regard to my own position, and as to some other matters.

Sir, I have ever been a national Democrat, and I have ever been what is now technically termed a "Hard." I am so still. I am not a politician by profession. I came to this House against my own judgment and my own inclination, surrendering both to the wishes of my friends; and none is responsible for what I speak here but myself alone.

I am no abolitionist—no Pharisee. I have as little inclination as I have authority to denounce the South, on this floor, for her peculiar institutions, or to lecture her for any sins of commission or omission; I have sins enough of my own to atone for, to employ all my time, without volunteering a campaign against any portion of this country.

From 1847, when the first State convention was held in my State, at which the question of Wilmot provisoism came up, and where it was laid on the table on my motion, and Mr. John Van Buren was refused a seat in the convention, down to the present session of Congress my course has been the same. I have always been opposed to Wilmot proviso-ism—ever anxious that the South should have her just rights. Such is my present position. Such was the uniform course of the "Hards" as a party. The action of Governor Dickinson, in the convention at Rome, in 1849, formed no exception. Though he was made to occupy a false attitude here by one of my colleagues, (Mr. WESTBROOK,) who quoted a part of his speech, and omitted a part indispensable to a correct understanding of the whole. Nor did Mr. Seymour, formerly a distinguished member of this House from New York, ever sign the secret circular, so called, signed and circulated by the Free Soilers of my State in 1844, to prevent the admission of Texas, as erroneously stated here by the same gentleman. In 1850 this administration came into conflict with us, chiefly by reason of the course we had thought proper to take in regard to what we deemed the just rights of the South.

From professed friends the administration became decided enemies, and finally declared open and unqualified war upon the Hards, by removing Judge Bronson from his position as collector, because he refused to join the Free Soilers, and desert his own friends. The Hards engaged in the war not reluctantly, and would have triumphed in the State, had they not been opposed by the whole power and patronage of the Government.

Some of my colleagues, in my absence from this House thought proper to arraign this administration for its improper interference in the local elections in New York. But with a few generous noble exceptions, they met with no countenance or support from the South. The past contests in my State were dignified by a southern gentleman, (Governor Sarns, of Virginia,) who spoke "with knowledge, but not by authority" of the Administration, with the classic name of "Squabbles." The past was as dust and ashes. But the next step forward upon this bill involving, as he alleged, the same principle, which in the past made "squabbles," now led to glory or the grave; as we should take that step depended light celestial or death eternal. Is it not wonderful, after this exhibition of what might be termed southern gratitude, ("a keen sense of favors to come,") that the united Democracy of New York, did not rush forward to vie with each other in this exciting race for glory!

The gentleman denied that the removal of Judge Bronson was a violation of State rights. I wish I had time to discuss the question, and to denounce the removal as I feel it deserves. The committee will recollect that another southern gentleman, a Democrat, declared upon this floor that New York had nothing in view but the spoils. I was sorry to hear that such a remark had been made. Sir, the State of New York needs no eulogium at my hands. "Her works do praise her." She was the first State in the revolutionary war to offer as a sacrifice upon the altar of our country, all her interest in the public lands for the common benefit. For this act she received the especial approbation of Congress. Virginia followed her example some three or four years after. She was the first State to take proceedings through her Legislature pointing to the necessity of the present national form of government, and the insufficiency of the confederation. Virginia followed her. When she came into the Union and ratified the Constitution, large as was her territory, great as was the certain promise of her resources and her political power, her assent to that instrument was accompanied with a recommendation of amendments to secure the sovereighty of the States, and the freedom and safety of the citizen. The amendments were subsequently adopted.

So far as the distribution of patronage is concerned, the Hards of New York looked to that action of the Administration, as in fact it was, as the only evidence of its principles. I do not desire to allude unkindly to the course of the South. I hear from that quarter repeated professions of high patriotic purpose and great indifference to spoils. But, sir, I notice at the same time that when the stream of public patronage rolls gently and calmly into her bosom, her sons are tranquil as the stream. But when the Hards of New York came here to return the blow given to them by this Administration, and that blow might disturb this current, then southern representatives, while proclaiming so loudly their sympathy with us, without stopping to inquire whether we were right or wrong, with principle, or without principle, rushed to the side of patronage and power, and their sympathy, in the language of one of their speakers, became at once "colder than northern ice."

A good deal of consolation has been whispered for the Hards of New York. But, sir, poor, indeed, is the spirit that is gratified with a sympathy that condemns while it stoops to console. There are different kinds of sympathy. When one is found struggling against an adverse current, where an effort to sustain the just rights of the sympathizer has placed him, passive sympathy stands quietly on the bank and looks anxiously at the struggle; he is very much grieved, and sorrowfully hopes that the man may get out of the water safely; but every now and then, examines his own boots to see if the water may not soil them. But he ventures not in, for fear of damage to his clothes. Another kind of sympathy, sir, interferes, and in order to free the sufferer from useless agony and vain effort, endeavors to push his head under water, and thus terminate his hopeless sufferings. But there is still another kind, and that is the sympathy we had a right to look for and expect from the South. It stops not to count the cost, but plunges boldly in, and generously saves or sinks with its friend. Sir, the first was the sympathy of the South; the second, the sympathy of this Administration!

I place the denunciation against those who oppose this bill, along with this passive sympathy, and regard each with equal respect. But to the question before us. It is said that the Administration is for the bill, and that they will take care of those who fall in its defence. They have, perhaps, some labor upon their hands. (Laughter.) The principle which should call for their action, can be found only in that order which directs "the dead to bury their dead." (Renewed applause and laughter.) Sir, the Administration can lay down no Democratic doctrine for me. Having utterly abandoned the patriotic doctrines that gave it power, it can make no test for me of Democratic principle. But if it could, it would not be at all difficult to find myself somewhere sustained in my action upon this bill, for the position of the Administration has been upon every side of it.

It is said, sir, to be a "unit" on this question. It is a gross libel upon the Administration to call it a "unit." I speak of the Administration without personal hostility, for I entertain no such sentiments. Since the removal of Judge Bronson, the Hards having expected nothing, have not been disappointed. But, sir, this Administration can be a "unit" here upon no other principle than that of "the cohesive power of public plunder." In that sense alone can it be a "unit." Sir, the members composing this Cabinet were selected upon compromise views, each man

being the representative of opposite political principles except one, who is the type of them all. They stand as much opposed to each other politically, as the Turk to the Christian, the Jew to the Gentile, in religion. How can they, then, agree upon this, if it be a question of principle? Sir, there is another figure that far better defines the position of this Administration, and that is, though it may not be a "unit," it is at least a cypher. (Laughter.) The same deep policy and far-seeing sagacity that formed this Cabinet, were also exhibited in administering the government in New York, where the Administration has finally succeeded in freeing itself from the support of all parties. But I can spend no more time upon this Administration, already condemned as a mournful failure by the almost unanimous judgment of the public. To the subject matter.

Sir, I came to the consideration of this measure with every prepossession in its favor. The press of that portion of the Democracy in New York with whom I have acted, had I believe unanimously taken ground in favor of the measure, though without reference to the provisions of the bill, and I had expected rather as a matter of course to occupy the same position. But after thoroughly examining this bill, its history and progress, and the legislation pertaining to it, I cannot give it my support, believing that it contains none of the principles, nor will its passage produce any of the results, under which it is sought to be imposed upon the public.

I will proceed to examine the bill. In 1803 we purchased of France a large Territory called the Louisiana Territory, reaching from the Gulf of Mexico to our utmost northern limits, up to the British possessions, lying chiefly on the west side of the Mississippi, with a small portion on the east side.

In 1812 Louisiana, a portion of that Territory, came in as a State, and in 1820 Missouri applied for admission into the Union. I do not go through the details of these several periods of our history. Pending the application of Missouri, very high excitement arose in the country as to her admission in reference to slavery. When this excitement had continued for a great length of time, and patriotic men felt alarmed for the welfare of the country, the disturbing question was settled by Congress, calmly and deliberately settled, settled by the South upon her own terms.

Missouri was to come in upon terms set forth in the act itself, to the effect that slavery might exist in that State and in the territory south of the line of 36° 30'; but never north of that line except in Missouri.

This settlement was deemed by all, and so proclaimed at the time, and denied by no man, to be a great triumph of the South. Northern men who voted for that line were condemned at the North.

It is of little moment, sir, as to the validity of this measure, whether it was consummated by great men or small. It was, however, brought about by patriotic men. It was certainly sustained in the South by the very proudest pillars of that portion of the Republic. It was approved by a southern president, Mr. Monroe, and by such southern men in the Cabinet as Wirt, Calhoun, and Crawford. That it was a southern triumph was fully expressed in the following letter of Mr. Pinckney, a member of Congress from South Carolina, written at the time:

"CONGRESS HALL, *March* 2, 1820.

"We have carried the question to admit Missouri and all Louisiana, south of 36° 30', free of the restriction of slavery, and give the South in a short time an addition of six and perhaps eight members to the Senate of the United States. It is considered here by the slaveholding States as a great triumph. The votes were close, 90 to 86, (the vote was so at first declared.) To the north of 36° 30' there is to be by the present law a restriction, which you will see by the votes I voted against, but it is at present of no moment. It is a vast tract, uninhabited only by savages and wild beasts, in which not a foot of the Indian claim to the soil is extinguished, and in which, according to the ideas prevalent, no land office will be open for a great length of time.

"CHARLES PINCKNEY."

The record proved that a majority of the South voted for this line, and a majority of the North against it, in both Houses of Congress. It is true the South received the smaller part of the Territory, but it was of a character better adapted to her purposes, and she chose it for herself.

The best intelligence we have upon the subject informs us that all that part of

the Territory now proposed to be organized north of the line of 36° 30', except that portion now marked out for Kansas, contained little but barren, uninhabited wastes in one part, and mountains in another. But, sir, the law was passed, the triumph of the South secured and proclaimed.

In 1836 Arkansas, the chief part of the remaining portion of the Territory assigned to the South, was admitted as a State. Then the South had substantially used and occupied the whole of this Louisiana Territory set apart for her. In 1853 a bill was introduced into this House from the same committee reporting this bill, to organize the whole remaining portion of the Louisiana Territory not included in other governments, under the name of the Nebraska Territory. That bill had no provision as to slavery. It left the Missouri Compromise line unrepealed. It passed this House; but was enacted upon in the Senate for want of time Now, a bill is introduced under the auspices of this Administration to repeal this Missouri Compromise line, to organize two Territories instead of one, and virtually to make another division and another settlement with the South.

The question then distinctly arises, and it is an important one, after the South triumphed in the first settlement, a settlement calmly made, without fraud or mistake, and all have acquiesced in it for more than thirty years, shall we make another, and divide with the South again?

First, I desire to know why these Territories should be organized at all at this time? Will humanity or justice to the Indians there permit it? Their title is not extinguished to one foot of the territory. I ask the chairman of the Committee on Indian Affairs, (Mr. ORR.) He is not present, but his associates (and among them I see the distinguished chairman of the Committee on Naval Affairs) can answer as well. I see, that during the last session of Congress, he and some dozen other southern gentlemen, voted against the Nebraska bill then before Congress, upon no other reason, as appears from the debate of others, than that it deprived the Indians of their rights; that we had not extinguished the Indian title to a foot of this land, and that it also incurred a useless expense, as it was not inhabited sufficiently. The distinguished chairman of the Committee on Indian Affairs has told us this session that it would be "despoiling the Indians" of their rights, robbing them, to extend our territorial jurisdiction over any Territory where the Indian title is not extinguished. That Young America once let in would not regard the Indian's rights. There is no pretence of the Indian title being extinguished here. Will the gentleman then vote to "despoil" them? If the Indian title be not extinguished, is it not as much despoiling them now as it would have been last year?

Repealing the Missouri Compromise was not thought of last year. But the Indian question existed then and now. But it is said there is no honest reason against repealing this Missouri Compromise. It would seem that an honest reason ought first to be found in favor of the repeal. It is alleged to be unconstitutional. Then the court will so decide, and let us no longer agitate the country about it. If unconstitutional, it is void, and no impediment to the South. Why not then be quiet, and let the Supreme Court of the United States decide? That Court is composed of eminent and learned men. Its impartiality or its ability no one will question.

But sir, is that law so clearly unconstitutional? I am unable, so far as I have examined the subject, to yield my assent to the principle of "squatter sovereignty." I say this of course with great diffidence, because I know that it conflicts with the very distinguished gentleman from Michigan, (Gen. CASS,) who is the author of that principle. But sir, the practice of the Government has been universally against this principle in the organization of every Territory, from the foundation of the Government to the present day, not excepting the Teritories of Utah and New Mexico in 1850. *The right to annul every act of a Territorial Legislature has always been reserved to Congress.* That is of course inconsistent with the idea of popular sovereignty, or the right of the people of a Territory to govern themselves. But it is said that the Territory is not by the Constitution subject to the legislation of Congress, except where it is expressly so stated, and hence that the provisions of the Constitution which authorize Congress to make all needful rules and regulations in regard to the Territory and other property of the United States, inasmuch as it mentions territory only as property, gives no authority to Congress to legislate for the government of the people. Conceding this to be the true construction for this purpose, I submit, sir, it follows that the territory of the United States is more sovereign than any State in the Union. The 10th section of the

first article of the Constitution prohibits the States from exercising certain appurtenances of sovereignty, from entering into any treaty, &c., granting letters of marque and reprisal, coining money, &c., from engaging in war, or making treaties, &c.

Territory is not mentioned in that clause, and it follows, it seems to me, from this reasoning, that Territory not being mentioned, and Congress having no right to control a Territory except where it is expressly stated in the Constitution, the Territory is sovereign and can do all these things prohibited to a State, and hence is more sovereign than a State. The premises that lead to such a conclusion can scarcely be sound. But I pass from this question, more abstract than practical—with this mere glance.

Mr. BOCOCK, (interrupting.) Will my friend from New York permit me? I make it a rule not to interrupt members of the Committee in the course of a discussion, unless some peculiar reason makes it proper. Now the gentleman, a few moments ago, made an appeal to me, and courtesy to him makes it proper that I should reply. The gentleman remarked that my distinguished friend from South Carolina, (Mr. ORR,) and myself voted together, during the last session of Congress, in opposition to a bill then brought forward for the organization of the Territory of Nebraska, and he asked why it was that we were voting differently now, and stated, without any speech from me, certainly without any other assignment of the reasons why I voted for the bill, that I voted against it, because the rights of the Indians were not properly protected, and asks, wherein does the present bill differ from the bill of the last session? It is enough for me to ask the gentleman, does the present bill agree with the bill of the last session in that respect? Is there no provision in the present bill differing from the provision in the other bill in reference to the right of the Indians? I say there is. I say that the rights of the Indians are protected in the present bill, whereas they were not in the other. If there were no other reasons for preferring the present to the bill of the last session, the odious restriction resting upon my section of the country would be enough. The bill of the last session was restrictive in its operation, whereas the present one is just and equal in that respect.

MR. PECKHAM. I simply say in reply to the gentleman, that the clause in the bill of 1853 is substantially like that of the present bill, and as broad as language can make it. It was also stated in the discussion on that bill, that if its language was not broad enough, as to securing the Indians, any amendment would be accepted. In reference to the position which the gentleman from Virginia now assumes about this Missouri line, excluding the South, not a word of this kind in that discussion was then uttered by way of objection to that bill, and it is rather late now to take such ground for opposing it, no one then ever thought of repealing the Missouri line. The only allusion made in the discussion at that time, was, when some gentleman in jest, said to the distinguished representative of Abolitionism here, (Mr. GIDDINGS,) why do you not attach the Wilmot Proviso to the bill? and he answered by saying, that the Missouri Compromise excluded slavery just as effectually, and no man from the North or South denied it.

The practice of this Government, therefore, from its organization, sanctions the right of Congress to pass this compromise law.

No right to legislate for the Territories! What are we doing now? Are we not legislating for them without their consent in every line of this act. Giving them laws, and limiting, controlling, and regulating all their powers of legislation? Furnishing a governor as part of their legislature, and sending to them all the officers of their government?

Are we guilty of usurpation in this, or have we the power? Is there any consistency in sustaining this bill, and still denying our right to legislate for the territory?

It has been alleged here by the South and by northern gentlemen, too, that the Missouri Compromise line has been repeatedly violated by the North since its enactment. I undertake to say, sir, it has never been violated—never, never. It was necessary, before the consummation of that act, that Missouri should come in as a State. More legislation in 1821 was necessary to enable her to be admitted. And when the question of her admission came up, the same men at the North who had voted against the compromise line, voted against her admission. When admitted, not before, the whole legislation was perfected. It is precisely like five owners of

a fortune with a majority having the right to sell. Three vote to deliver the deed on a certain day, and two against it; and the two still continue when the day arrives, to oppose the delivery of the deed; but being delivered and the sale perfected, it is ever after acquiesced in. So this line, after the compact was consummated by the legislation of 1821, has been ever held as sacred as the walls of Heaven.

Mr. RICHARDSON. Did they not extend the line and add several counties to the State of Missouri?

Mr. PECKHAM. That was in kindness in the North to the South, not in violation.

Mr. RICHARDSON. It was a violation of the compact.

Mr. PECKHAM. It was not a violation. No man thought of violating it. It comes with a poor grace from the South—a very poor grace—for any southern man, or from any friend of the South, to say "you violated our compact in your kindness and generosity in giving to the South what she had no right to demand."

But it is said this measure will not add one more slave State, and high authority is quoted to prove that it never can. But why not? Sir, you have Kansas starting from 37 deg. north latitude, and running up to 40 deg., passing through three degrees of latitude. I ask gentlemen why will not Kansas be a slave State? What is the objection? In the first place it has slavery all around it, at least on all its habitable sides. On the east is Missouri; on the south is the Creek nation, possessing some 20,000 slaves; and on the west, so far as you can get near it, is the Territory of Utah, where slavery is now established by law. Utah, the Territory which was certain to be forever free, and lying far north of Kansas, and whose geographical position, in the language of Senators, prohibited slavery by an irrepealable law. But it has gone there. Why can it not go into Kansas? Why, sir, the climate of Kansas is balmy, soft, gentle, and sweet as any part of the sunny South. No negro need look for a lovelier spot. The farther you go west, we all know the milder is the climate in the same latitude, until you reach the Rocky mountains. When you keep along this Valley of the Kansas, you are in the genial South. It is upon the same parallel of latitude with Missouri, Kentucky, Virginia, and other slave States. Why, then, say to us that slavery cannot go there, and that it is prohibited by geographical law? But there are other reasons why it can and will go there. Why are there two Territories to be organized now instead of one? Why is that?

MR. RICHARDSON. If the gentleman does not want an answer he should not put questions.

Mr. PECKHAM. When I am through the gentleman may answer me, I have no time to lose.

But why organize two Territories now, when last session the same committee reported a bill for only one? and in it there was no repeal of the Missouri Compromise? The Territory is no larger, nor the population increased.

In the best and latest official information on this subject, contained in a report from the intelligent commissioner of Indian affairs residing here, (who personally and officially visited that country last fall,) to the Secretary of the Interior, found in the first volume of the President's Message and Documents, page 275, it is stated that "On the 11th of October last, the day on which I left the frontier there was no settlement made in any part of Nebraska. From all the information I could obtain, there were but three men in the Territory, except such as were there by authority of law, and those who were adopted by marriage with Indian families." It should be borne in mind that white men are forbidden by law to settle there, and cannot trade with the Indians except by especial leave. Is not one territorial government sufficient for three men?

Mr. HAVEN. How will they divide the three to make two equal ones?

Mr. PECKHAM. That would present a difficulty unless they should do as we do in our compromises with the South, give them two and take one ourselves. Sir, the gentleman from North Carolina (Mr. CLINGMAN) was with difficulty induced, last session, to vote for this bill, when there was only one Territory proposed. On the 10th of February, 1853, he said: "But I see no necessity in fact for creating this Territory—setting off a Territory there, will require an expenditure of nearly $100,000 a year." He stated that the population was "probably less than 600; but if it was 6000, unless they were thrown together in some part of the Territory, he did not think a separate government should be formed." The absence of a population, the rights of the Indians, and the expense, were difficulties with him

then against one Territory. Now this gentleman who could scarcely be brought to vote for one Territory then, is one of the strongest advocates for two territorial governments—not for $100,000, but for $200,000 annual expenses. This expense remember, too, paid by us, by the General Government, not by the Territories.

Why, sir, there are two important objects in having two Territories. One is to make Kansas a slave State. When these Territories apply to come in as States, of course a fair division will be claimed. We shall have another compromise. Nebraska will come in with all its barren wastes and mountain wilderness as a free State, and Kansas, with its lovely flowing rivers and enchanting plains, will come in as a slave State. The second object for two instead of one Territory is to create additional patronage for the Government, in the distribution of these territorial offices, and thus obtain strength for the bill, to repeal the Missouri Compromise—to create a sort of political asylum for those who may become crippled in this contest. (Great laughter.) As a generous man, I shall have no objection except to the distance—I fear they may be too much maimed to reach it. (Renewed laughter.)

Mr. RICHARDSON. There are no constitutional barriers to that.

Mr. PECKHAM. None, sir, that will not yield. I have heard of such barriers that gave way to the occasion. But, sir, we are gravely told that the South mean nothing of this sort, that they have no expectation that slavery will ever go there, that there is really no substance in the bill for them; all they wish is the removal of this hateful restriction. Then, sir, why have two Territories? one will secure the principle. If they are pursuing a mere shadow, the South should remember the fable of the dog and his shadow, and profit by it. It is laid down in the books the moral to that fable, that he that catches at more than belongs to him, justly deserves to lose what he has. But it is idle to shut our eyes to facts and listen to the declarations of men, however eminent, as to "geographical laws." With these facts and this governmental machinery, slavery will go into Kansas with as much certainty as death follows life.

Sir, this organization of two Territories is contrary to the uniform practice of our government, which has ever been to embrace all the territory where the population is very sparse in one incorporation. First, the whole territory northwest of the Ohio was embraced in one organization, from which five States were subsequently formed. Next, Indiana was formed; Michigan Territory afterwards included what is now Wisconsin and the State of Michigan, and so on. Thus principle and precedent are alike disregarded by this bill, under the humiliating pretence of conforming to both.

From all the information I have, I am satisfied that this measure is not really desired by the great body of the South. I have heard many a southern man lament its introduction. It is offensive to the North. It is the production of a weak, vacillating Administration, seeking to obtain vigor by some extreme act of legislation.

It is said that if slavery should go to this Territory it will not add one to the number of slaves now existing; it will only make them more comfortable by being more sparsely settled. Sir, this is not in the issue—mere words to confuse abolitionists—though easily answered, it is not in the bill. The comfort of the slaves requires no more Territory. Gentlemen of the South you do not, you cannot, pretend that your condition requires it. If it did, I would grant it liberally, generously. But with a white population less than half, and including slaves only about two-thirds as large as the North, you now have a Territory nearly twice as large as the North, with every variety of climate. Let us say no more about the slave's comfort. Political power is the purpose of the South in this bill, not comfort to the slave.

Gentlemen say this is a bill of peace, that it is going to bring peace to the country now and forever, upon this slavery question, that slavery agitation will hereafter no longer be heard in these Halls.

Peace, sir, where is the war now? or rather, where was it before this peace measure came in? Was there then the slightest ripple, upon the political waters as to this compromise line? I thought the country was already at peace. I thought the quiet was so perfect, so tranquil, that there scarcely seemed capacity for a strife when this Congress met. But the moment this bill of peace comes in, the political and sectional elements are at war. Crimination follows crimination, perfidy is denounced against the South, and dishonor upon the North. Excited and angry discussion pervades the land. It seemed as if the gates of the lower regions had been

thrown widely open, and this messenger of peace had issued thence directly into these Halls.

When this bill made its appearance in the Senate this winter, General Cass, in an able speech, strongly expressed his regret "that this question of the repeal of the Missouri compromise, which opens all the disputed points connected with the subject of Congressional action upon slavery in the territories had been brought before us." The whole country, sir, North and South, except "uneasy politicians," and a still more uneasy Administration, sincerely joined the very distinguished Senator in this regret. Sir, if the bill were in fact what it is proclaimed to be, if its effect would be or could be to exclude slavery discussion forever from these halls, I would go for it at almost any sacrifice. But the 14th section of the bill, with its proviso and declarations, is so peculiarly and purposely worded, that it admits of as many different interpretations as there were languages at the tower of Babel after God had smitten the people with a confusion of tongues, so that no man could understand his brother. For example, the Senator from Michigan sees his favorite, popular, or, as it is sneeringly termed, "squatter sovereignty" there; this is strongly denied to be in the bill by the Senators from North and South Carolina, Judges Badger and Butler, and by others. One Senator insists that slavery will go to these territories under this section, without further legislation. Another denies it. Sir, where the fountain is thus muddy, can the stream be clear? Where the law itself contains the elements of discord, can its practical effect be peace? When the fathers of this bill cannot understand it alike, will not the people be deceived?

That this bill is even intended to terminate slavery excitement in this Capitol is utterly delusive. Many of its supporters in the Senate, after it had passed that body, and on the 22d of March last, took occasion expressly *to deny that it was intended to apply to all future territories;* among others, Senator Badger said, "The bill necessarily implies but this, that in the existing state of the country, and in the circumstances and conditions in which the inhabitants of these territories will be placed, we thought it fair and reasonable to them, and not injurious to the United States, to extend to them the powers of legislation which the bill confers. But never, never, in any event acknowledging directly or indirectly the existence of this "squatter sovereignty."

Senator Butler, of South Carolina, said, "Now, sir, as my friend from North Carolina, (Mr. Badger,) has said I would deal differently with different territories, according to the people that were on them." Senator Stuart, of Michigan, said "It establishes a principle so far as relates to these two Territories. It establishes that principle no further." So far from being a bill of peace, it makes war here on this territory, where peace has prevailed for more than thirty years, and a contest is expressly reserved by Senators for every new territory. Then, sir, I ask again, why disturb this settlement so fairly made, deliberately made, to the South triumphantly made? Why disturb it, for no conceivable benefit to the North, simply to afford an opportunity for slavery to go where the South solemnly agreed with the North it never should go? Why disturb it too, under the delusion of the principle of popular sovereignty, which I shall hereafter show is not in the bill. Sir, this bill settles no principle for the future but one. It does settle the principle of disregarding all compromises, all compacts, no matter what their solemnity or their duration.

If this bill of peace should pass, you may expect more peace bills. You may look for one to repeal this law. You may turn your attention to the Texas compact for the admission of four new States, to the fugitive slave law, and to slavery in this District. Most of these are based on compromises which this bill settles the principle of disregarding, and encourges a contest as to each.

Sir, the South in this case have not the excuse of the prodigal son. He had spent his possessions in riotous living, and his necessities demanded of his brother another division. They have all theirs in possession and enjoyment, and yet demand another division, to break up the settlement themselves have made.

I regretted to hear Southern gentlemen in this discussion make calculations of the value of the Union. It has been the habit of the South to talk of the dissolution of the Union from the earliest times. Mr. Pinckney, when the Constitution was being framed, threatened that unless the right to import slaves was continued after 1800, South Carolina would not come into the Union. Sir, I love this Union—idolize, almost worship it. I regard it as the very sun of American freedom, imparting light

and life to these States and to the world. Extinguish it, and though the States may still glimmer as pale stars in the night, yet the daylight of liberty is gone forever. I would sacrifice almost anything, yes, anything on earth, to preserve and perpetuate it, except my self-respect. That I hope to carry with me to my grave. But I would say to the gentleman from South Carolina, that if the connection of the South with the Union be so great a sacrifice of her interests, I will be the last man to stand in the way of her prosperity. Though I should see the tie broken with infinite pain and regret, yes, infinite regret, yet I would interpose no obstacle to her departure, if her union with the North be against her will or inconsistent with her interest or her honor. I would add, however, that though she may now count her loss by the connection in figures, after the dissolution she could easily count it in facts.

Though I regretted to hear this valuation of the Union, yet I regretted much more to hear a Northern man become the volunteer historian of the degradation of his own land. The distinguished gentleman from New Hampshire, (Mr. Hibbard,) in his speech the other day in this House, spoke of "the venal defamers of the free land which gave them birth," and then in the same speech quoted a statute from the records of Massachusetts, to show "that Massachusetts votes to reject Missouri from the Union unless she will amend the provision of her constitution excluding free negroes from her borders, while at that very time she has a law in force for whipping every free negro out of the State who should tarry there for the space of three months." And he added, "the laws of every slaveholding State in the Union will be searched in vain for so barbarous an enactment."

Massachusetts and New Hampshire were once, and for many years, virtually the same State. They were under the same charter for forty years, and it was not until 1679 that a separate charter and government were granted to New Hampshire.

Sir, this statute of exclusion has no reference whatever to free negroes, it aimed at fugitive slaves, vagrant slaves, as the most casual reading will show. Free negroes Massachusetts ever regarded as "citizens." The statute reads as follows: "That no person being an African or negro (other than a subject of the Emperor of Morocco or a citizen of some one of the United States to be evidenced by a certificate from the Secretary of State of which he shall be a citizen) shall tarry within this State for a longer time than two months," &c.

Sir, I trust that the limits of every civilized land will be "searched in vain" for another representative, who, in a contest, in a great degree sectional, shall volunteer to hunt for and recite the records of his own peculiar land, and misinterpret them, too, to dishonor and degrade her.

Sir, when it becomes a part of the duty of a representative to reflect upon and dishonor in history the land of his fathers, then I hope that my self-respect will terminate my official career.

I am proud to acknowledge that my forefathers came from New England, yet I never expected to be called upon in this House to defend her fame against an attack from one of her own sons. Though no admirer of the politics of the elder Adams or of many of his compeers of the Revolution, yet their deeds are a part of the glories of the country. Liberty had no truer votaries, patriotism no purer worshippers than were found in New England—aye, and in old Massachusetts, the cradle of liberty.

Sir, could the elder Adams, or could any of the patriots of his day, ever have been induced to herald the shame or the infamy of their own land? Could they have volunteered to do it?

But, sir, times change, and unfortunately here, men change with them.

Sir, I believe that no son of the South has ever yet been found capable of such a deed; and, if not the first, I trust that this will be the last, the North will produce.

There was but one step more for the gentleman to take. Guided by the same patriotic purpose, could the gentleman present, from the records of his own family, some deed connected with slavery that would bring the blush to the cheek of some surviving relative, then would his offering to the South be complete, and the measure of his fame be full.

No doubt the materials were wanting—not the spirit.

Sir, I know it is written that he that humbleth himself shall be exalted; and if promotion bear any proportion to abasement, is there any elevation to which the gentleman may not justly aspire?

To return to the subject. It is said that the Missouri Compromise is inconsistent with the compromise measures of 1850, and is impliedly repealed by those measures.

It is singular that this discovery was not made in 1853, when a bill was introduced and passed in this House without any such repeal, for the organization of this same Territory, and was laid on the table in the Senate for want of time to act upon it!

So far from considering it repealed, there was no man in the House or the Senate who was bold enough to make such an assertion, or to make an effort for its repeal.

Hear what the distinguished democratic Senator from Missouri, (Mr. ATCHISON,) now acting Vice President of the United States, then said on that subject.

On the 3d of March, 1853, after stating that he had had two objections to the bill, one of which was the Missouri Compromise, he said: "but when I came to look into that question, I found that there was no prospect, no hope of a repeal of the Missouri Compromise, excluding slaves from that Territory." In another part of his speech he said: "It is evident that the Missouri Compromise cannot be repealed—so far as that question is concerned, we might as well agree to the admission of this territory now as next year, or five or ten years hence." (Congressional Globe, page 1115.) And no man contradicted or enlightened him—because no man had then discovered the repeal. And yet it *was* virtually repealed all that time, if the distinguished Senator had only known it, according to the historical 14th section of this bill, which so recites. Washington Territory too was organized in 1853, and no mention made of this repeal—slavery was excluded there.

But it is said by the distinguished gentleman from Virginia, (General BAYLY,) that the acts of 1850 organizing the Territories of Utah and New Mexico contain the true principles of American liberty, and that they ought to be applied here.—Sir: Though it may seem irreverent, so to speak of those measures, in my judgment they scarcely contain the first principle of American liberty, of popular sovereignty, or of the exercise of popular sovereignty. The people there have about as much sovereignty as have the slaves at the South—they can do nothing against the will of their master there—nor can the people of Utah against the will of their Governor. He has the absolute veto of all laws that the legislative assembly may pass, and the President here has the absolute veto of him. He may make and unmake him at his pleasure.

The 2nd section of the Utah act is as follows: "That the executive authority in and over said Territory of Utah shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, *unless sooner removed* by the President of the United States. The Governor shall reside in said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, *and shall approve all laws passed by the legislative assembly before they shall take effect.*"

Section 10 of the same act gives to the President power to nominate and by the advice of the Senate to appoint the Governor, Secretary, the Judges and the Attorney and Marshal for the Territory, and the whole expenses of the Government in all its branches are paid by the Executive Government.

The 7th section gives to the Governor power to appoint all township, district, and county officers," who shall hold their offices *until "the end of the first session of the legislature."*

The 14th section of that act declares "that the legislative assembly shall hold its first session *at such time* and place in said Territory as the Governor thereof shall appoint and direct."

His officers may thus hold during his pleasure.

What sovereignty the people exercise, sir. The Governor is *there* more than King, and the President is the autocrat over him. They have not as much freedom as an elective monarchy—scarcely as much as a hereditary monarchy where there is also a legislative body. In almost all monarchies, other than absolute, the King is more or less dependent on his people for supplies, &c. In Utah the governor is perfectly independent of them, and has no feeling in common with the sovereign people. He is the mere servant of the President, and so with all the other officers who are paid by this Government, and removable by the President at his pleasure. Here at this Capital then, at the central power here, let the young and enterprising sons of the country direct their energies and ambition—let them court the favor of the

White House, for the sovereign of all this popular sovereignty dwells there. You may sneer at the sovereigns up the creeks, on the prairies, and in the forests of the far distant West. They have no power and can dispense none. But you must smile and bend the knee at the other end of this avenue. For thence come the rulers for that remote region. What a practical illustration this of State rights and State sovereignty, of which we hear so much, or of popular or squatter sovereignty! Sir, I am opposed to all this, utterly opposed to adding anything more to the central power here, already so overgrown as almost to endanger the liberty, the sovereignty of the States. I am for establishing the fountain of power for a Territory in the Territory itself. Compelling those who would be refreshed by its waters to go to that fountain. I would make all these officers elective by the people of the Territory, except, perhaps, the District Attorney and Marshal, who being *quasi* officers exclusively for the United States, might be appointed by the President and Senate. The enterprising and ambitious would then go to the Territory, and there contend in manly rivalship for the honors of that land; all the competitors would go—not merely the appointees. They would thus increase the population, add to the wealth and the energy of the Territory. You would then have in exercise practical popular sovereignty, and without apprehension as to its proper exercise.

Whereas, with this governmental machinery under which Utah was organized, the territory was naturally and necessarily under the control of the officers, the officers subject to the President, and the President in the hands of the South. The result, natural and necessary, was the establishment of slavery in that territory by an affirmative act of the legal legislature, and it now exists there by law, though it was solemnly and repeatedly proclaimed on that as on this bill, that physical geography forbade its going there.* This sort of government might perhaps be appropriate at first to territory acquired from Mexico, where the inhabitants have generally been accustomed to arbitrary and absolute governments. But there is no reason for its application to territories like these which will be chiefly peopled by citizens of a far different class.

Again, sir, this Utah bill, this pattern of American liberty, also contains in its 5th section the Clayton amendment, so called, so justly obnoxious to our enterprising foreign population wishing to emigrate there, depriving them of the rights of the elective franchize, and of holding office until they shall become naturalized, except at the first election, and then to be confined to those resident there at the time of the passage of that act. Will any one, believing in this new charter of liberty, go against the Clayton amendment, and thus repudiate the charter?

Then I ask the gentleman from Virginia, will the Democracy of this nation ever recognise in that Utah law, containing the provisions to which I have alluded, the great principles of American liberty? Never, sir, never. I repeat, it does not contain the first principle of popular sovereignty or allow of its exercise. To say otherwise is worse than delusion. The bill before this House contains all the objectionable features of the Utah bill, except the veto power of the governor. That is qualified so as to require two thirds of each house to pass a law that does not receive his sanction; this is an improvement so far as it goes, but will not change the general

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* An act in relation to service.

"Sec. 3. That any person bringing a servant or servants and his, her or their children from any part of the United States or other country, and shall place in the office of the Probate court the certificate of any court of record under seal, properly attested, that he she or they are entitled lawfully to the service of such servant or servants, and his, her or their children, the Probate Justice shall record the same, and the master or mistress, or his, her or their heirs shall be entitled to the services of the said servant or servants, unless forfeited as hereinafter provided, if it shall appear that such servant or servants come into the Territory of their own free will and choice."

"Sec. 6. It shall be the duty of the master to correct and punish his servant in a reasonable manner, when it may be necessary, being guided by prudence and humanity; and if he shall be guilty of cruelty, or abuse, or neglect to feed, clothe or shelter his servant in a proper manner, the Probate Court may declare the contract between master and servant or servants void, according to the provisions of the fourth section of this act." Copy of the Utah Stat., passed February 4, 1852.

effect. The officers sent from the central power here will naturally and necessarily exercise a controlling influence in the Territory. In fact for some time to come there will be more officers than privates.

But, sir, there is one feature of this bill which differs essentially from the Utah act. At the time of the passage of that act, slavery was prohibited by the laws of Mexico, in Utah and New Mexico; *and Congress expressly refused to repeal those laws.*

By the 14th section of this act the Missouri law prohibiting slavery, is repealed. What reason for this departure from the Utah precedent? Why not allow that law to stand, as in Utah, and give to the people the right to form their own institutions in their own way?

In the bill as reported at this session by the distinguished Senator from Illinois (Mr. DOUGLAS,) but one Territory was proposed to be organized, and no section of that bill repealed or proposed to repeal the 8th section of the Missouri act, prohibiting slavery in that Territory. In the report accompanying that bill, after alluding to that section prohibiting slavery, he said:

"Under this section, as in the case of the Mexican law in New Mexico and Utah, it is a disputed point whether slavery is prohibited in the Nebraska country by *valid* enactment. The decision of this question involves the constitutional power of Congress to pass laws prescribing and regulating the domestic institutions of the various Territories of the Union. In the opinion of those eminent statesmen, who hold that Congress is invested with no rightful authority to legislate upon the subject of Slavery in the Territories, the 8th section of the act preparatory to the admission of Missouri is null and void; while the prevailing sentiment in large portions of the Union sustains the doctrine that the Constitution of the United States secures to every citizen an inalienable right to move into any of the Territories with his property, of whatever kind and description, and to hold and enjoy the same under the sanction of the law. Your Committee do not feel themselves called upon to enter into the discussion of these controverted questions. *They involve the same grave issues which produced the agitation, the sectional strife, and the fearful struggle of* 1850. As Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the Constitution, and the extent of the protection afforded by it to slave property in the Territories, so your Committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the 8th section of the Missouri act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute."

To that position I fully assent—I am against a repeal of that prohibitory clause—since then, however, the Senator and the Administration have changed position—the bill now proposes to organize two Territories, and to repeal the 8th section of the Missouri act, which prohibits slavery in this Territory—clear concessions to the South to enable slavery to go to this new country. But the great principle of the Compromise act of 1850 has not changed. I cannot desert the Democratic party and Democratic principles to go with this Administration in all its revolutions.

Though unable to yield my assent to this doctrine of "squatter sovereignty," yet I believe in the propriety, policy, and justice, of giving to the people in the Territories, *not to the President*, the full exercise of popular sovereignty, to form and determine their domestic institutions in their own way, uncontrolled and uninfluenced by power here. In the total unqualified non-intervention by Congress or by the Executive, in their government, by sending out officers to rule over them. Let them elect their own officers, governor, secretary, judges, &c., and govern themselves. That is the principle of American liberty.

Make this bill conform to that principle, strike out the repeal of the Missouri Compromise, the Clayton amendment prohibiting foreigners who shall have declared their intentions to become citizens and taken the oath of allegiance, from the right of suffrage, &c., organize but one Territory when it is conceded that two are unnecessary, can be organized for no legitimate purpose, and are a useless waste of $100,000 per annum, and I am for the bill. These changes I shall attempt to obtain, and if they or their substance can be adopted, I am for the bill. Otherwise I am against it, and shall endeavor to defeat its passage.

The Roman Emperor Julian, generally called the apostate, when fatally wounded on the field of battle, expressed his gratitude to God that he was permitted to die before he had done aught to bring dishonor upon his name.

Look at the course of this Administration, and then look at the Baltimore platform of 1860, at the inaugural, and at the message, all of which have been violated in the most emphatic portion of each, and tell me, sir, whether this Administration has not almost, if not entirely, survived the capacity to express the gratitude of Julian?